

Docket No. 1912-0316PUS1

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants: BEAUDET et al.  
Serial number: 10/537,118  
Filing date: February 9, 2006  
For: AN EXOPOLYSACCHARIDES DELIVERY SYSTEM FOR ACTIVE  
MOLECULES  
Art Unit: 1623  
Examiner: SCHMIDTMANN, BAHAR  
Agent: Mark J. Nuell

**DECLARATION UNDER 37 CFR 1.132**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

I, Éric Simard, solemnly affirm the following:

1. I am one of the co-founder of Technologies Biolactis Inc. with Pierre Lemieux, and I have been involved in the R&D program at Technologies Biolactis Inc. ever since, being also in charge of the intellectual property portfolio.
2. As one of the inventors of both inventions, I am familiar with the course of the making of the inventions disclosed and claimed in U.S. Patent Application Serial No. 10/537,118, and U.S. Patent Application Publication No. 2006/0057131.
3. I, as one of the inventors of the subject matter of this application and signing below, hereby declare that the subject matter of U.S. Patent Application Publication No.



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2006/0057131 cited by the Examiner at the bottom of page 15 of the present Office Action, namely:

The '131 publication discloses fermentation by-products produced from bacterial *Lactobacillus* strains R2C2, INIX, ES1 and K2 (claim 28). The '131 publication discloses the fermentation by-product comprises polysaccharides, including exopolysaccharides, hereafter EPS (paragraphs 0038-0039). The '131 publication discloses the protein containing the EPS is formulated at concentrations ranging from 0.001% to 1% (column 17, example 26, paragraph 0182), i.e. critical micellar concentrations identical to the instant disclosure (see instant specification, column 4, example 1, paragraph 0056). The '131 publication discloses the EPS containing protein is formulated with 5-fluoro uracil to treat colon cancer (column 20, example 37). Thus, the '131 publication discloses an EPS micelle, i.e. a "delivery system" comprising 5-FU,

wherein the EPS was produced by bacterial *Lactobacillus* strains R2C2, INIX, ES1 and K2.

... was conceived or invented by me. Thus, the above subject matter, which is disclosed but not claimed in the cited reference, was derived from a co-inventor of the subject matter of this application and not "by another".

4. I further declare that all statements made herein of my own knowledge are true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both and that such statements may jeopardize the validity of the application of any patent issued thereon.

ES

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8 June 2011  
date

And I have signed

Eric Simard  
Dr. Éric Simard